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PROTECTING CONSUMERS SINCE 1975

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VIA ELECTRONIC FILING

The Honorable Jocelyn Boyd
Chief Clerk/Executive Director
The Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, South Carolina 29210

RE: Docket No. 2021-143-E and 2021-144-E
Applications for Approval of Smart $aver Solar as Energy Efficiency Program
Comment Letter

Dear Ms. Boyd:

Please accept this letter regarding the Duke Energy Carolinas and Duke Energy Progress (collectively referenced as "Duke") applications for approval of new energy efficiency ("EE") programs. Pursuant to S.C. Code Ann. § 37-6-604(A)(1), the Department is authorized "to provide legal representation of the consumer interest before the state and federal regulatory agencies which undertake to fix rates or prices for consumer products or services." The Department was provided notice of this docket pursuant to S.C. Code Ann. § 37-6-604(C). Due to resource allocation considerations, the Department did not previously intervene, but we are submitting this letter to address the programs' impacts on consumers. Should there be any objection to our submittal, we would be happy to intervene or provide a more formal brief of the issues.

The Department is concerned about the Smart $aver Solar program costs and impacts on consumers that do not participate in the program. Before further addressing our concerns, I want to state the Department recognizes the potential benefits of residential rooftop solar, not just for the individual households where it is installed, but also for the grid and environment. We also recognize the Duke proposal might provide financial incentives that encourage consumers, who may not otherwise be able, to install rooftop solar. To that extent, we would support the program. However, in addition to its direct costs from providing incentives, Duke is requesting recovery of

lost revenues. These lost revenues include the lost income from energy it would have sold, but for the installation of solar panels, as well as significant returns for shareholders. In fact, the majority of the costs associated with the proposed programs would go to Duke shareholders. It is important to remember that any incentives, cost recovery, or investor returns related to the program, will be paid by the customers of Duke.

In his direct testimony, ORS witness Morgan outlines ORS's concerns with the proposed program, namely:

1. It is not proper to classify customer-generator Solar PV systems as EE;
2. Duke's proposed Programs create significant additional customer costs;
3. The additional costs imposed on non-solar residential customers are unwarranted; and
4. Duke's cost-effectiveness test results contain serious flaws.

The Department has not analyzed the cost-effectiveness test issues raised in this matter, but we share the other three concerns. For these reasons, and because the programs could unfairly penalize participants, we also agree with ORS that the programs, as proposed, should be denied.

Solar Photovoltaic ("PV") Facilities at Residential Premises Are Not EE

The Department agrees with ORS witness Horii that "[s]olar PV is a generation resource, not EE." We believe the definition he provides from the United States Energy Information Administration should drive the Commission's decision. ("Energy efficiency is using technology that requires less energy to perform the same function.") As ORS witness Morgan states, "customer-sited solar PV is a source of energy and in no way reduces the consumption of any end-use household equipment for the customer-generator." Due to the incentives available to utility companies and their shareholders, EE programs should be used for technologies that use less energy to perform the same task and therefore, reduce energy waste as reflected in ORS's testimony.

We also agree with ORS that Duke's proposals fall within the Solar Choice Program pursuant to S.C. Code Ann. § 58-40-20. That section prohibits recovery of lost revenues associated with customer-generators who apply after June 1, 2021. It is undeniable that the residential solar installations contemplated by the program would be "customer-generators." Duke obviously argues against the application of the Solar Choice program provisions because otherwise it would not be entitled to "net income…at least as high as the net income would have been if the energy conservation measures had not been implemented." That is the language in S.C. Code Ann. § 58-37-20 for EE programs. If the program is not EE, then Duke is not entitled to a return for its shareholders or the difference in revenues from selling less energy.

Consumers Will Pay for Unwarranted Shareholder Profits and Participants May Be Penalized

ORS witness Morgan's direct testimony shows that South Carolina residential customers will pay over $7.5 million in costs for the programs over 5 years, with, a majority of that money going to shareholders. He notes that, of the total program costs, 53% and 64%, would go to the shareholders of Duke Energy Carolinas Duke Energy Progress, respectively. Further, a very small number of Duke's customers are anticipated to participate in the program. Discovery responses from Duke included in Mr. Morgan's testimony show the companies project a total of only 3,707 participants out of its over 800,000 customers.

These programs would add to the $117 million Duke's customers are already paying for approved EE/DSM programs. While the Department has not reviewed all of the existing programs, most appear to be programs that all customers can benefit from. For example, there are no special circumstances needed to obtain a rebate for energy efficient HVAC units, water heaters, or light bulbs. However, not every resident can install solar panels. The position of the home, presence of trees, roof condition, etc. may prohibit eligibility. Other customers may rent their home or live in an apartment complex. Further, while Duke claims it will pay an average incentive of $3,500, a 10-kW rooftop solar installation in South Carolina has an average starting cost of $26,800[1], making them cost prohibitive for many residences even with incentives. The Commission should not approve a limited program that is heavily subsidized by non-participants and primarily designed to incentivize shareholders.

If the Commission considers approving the programs, the Department also has concerns with the penalty provisions in the proposals. The Department received 247 complaints related to solar panel installations from 2014 until September 2021. Forty-three (43) of those complainants received refunds, totaling $797,173.30. The top complaints are broadly related to being misled about utility savings, misrepresentations regarding incentives/rebates, and equipment issues. These are all items beyond the control of the consumer, and they should not be penalized because of them.

Duke's proposals require customers to remain in the programs for 25 years, and if they do not, they "must repay a prorated share of the initial Solar EE incentive for every year the allowance is exceeded." Exhibit A of the application notes this penalty amounts to "$200 for each year of the 25-year contract period that the customer is not enrolled, not to exceed the customer's initial incentive payment amount." Duke can also charge a penalty "[i]f a customer opts out of more events than the Winter-focused option of Rider LC allows in any year, the customer will be charged a $200 fee." Due to the costs associated with solar installation, consumers are already invested and do not need the threat of a Duke-imposed penalty as a deterrent. Therefore, the Commission should deny the proposed penalties.

[1] https://news.energysage.com/how-much-does-the-average-solar-panel-installation-cost-in-the-u-s/

Conclusion

The Commission has discretion whether to approve Duke's proposal. Even if S.C. Code Ann. § 58-37-20 is applicable as Duke suggests, that section states the Commission "may adopt" programs to encourage energy efficient investments. However, if the Commission does adopt the program under that section, then it "must" provide certain income to the utility. On the other hand, S.C. Code Ann. § 58-40-20(I) clearly prohibits utilities from recovering lost revenues associated with customer-generators who apply after June 1, 2021.

While the Department does not believe Duke's proposal meets the definition of EE or the intent of § 58-37-20, the Commission should use its discretion to deny the request. Otherwise, as Mr. Morgan states in his direct testimony, the Commission "will introduce and shift unwarranted costs to the Companies' non-solar residential customers" and at the same time, provide unnecessary profits to shareholders "which will be paid for by all of Duke's South Carolina residential customers." We believe such an outcome would be counter to the Commission's obligation to set fair, just and reasonable rates.

The Department appreciates the Commission's time and attention to this matter and respectfully requests it deny the programs as submitted by Duke.

Regards,

Roger Hall, Esq.
Deputy Consumer Advocate

CC: Parties of Record (via email)